

AMENDED IN SENATE MAY 4, 2005

SENATE BILL

No. 755

Introduced by Senator Poochigian

February 22, 2005

An act to amend Sections 60611 and ~~60642~~ *60640* of, and to amend and repeal Sections ~~60603, 60604, 60605, 60605.6, 60606, 60640, 60643, and 60643.1~~ of, the Education Code, relating to pupil assessment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 755, as amended, Poochigian. Pupil assessment.

(1) ~~Existing law, the Leroy Greene California Assessment of Academic Achievement Act, requires each school district, charter school, and county office of education to administer certain achievement tests to each of its pupils in grades 2 to 11, inclusive, until July 1, 2007, and to each of its pupils in grades 3 to 11, inclusive, after July 1, 2007.~~

~~This bill would extend the administration of those tests to pupils in grades 2 to 11, inclusive, to July 1, 2011, and would repeal the provisions that require those tests be administered to pupils in grades 3 to 11, inclusive, after July 1, 2007. The bill would make conforming changes. By extending those tests to pupils in grade 2 after July 1, 2007, the bill would impose a state-mandated local program.~~

(2) ~~Existing law, the Standardized Testing and Reporting (STAR) Program, requires each school district, charter school, and county office of education to administer a designated achievement test to each of its pupils in grades 3 and 7 and a standards-based achievement test to each of its pupils in grades 2 to 11, inclusive, a~~

~~standards-based achievement test until July 1, 2007, and to each of its pupils in grades 3 to 11, inclusive, after July 1, 2007.~~

Existing law requires, *until July 1, 2007*, a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take a test in his or her primary language if a test is available and if fewer than 12 months have elapsed after his or her initial enrollment in any public or nonpublic school.

This bill would instead require a pupil identified as limited English proficient pursuant to a specified test who is enrolled in any of grades 2 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months, to take a test in his or her primary language if a test is available. *To the extent this bill would impose additional duties on school districts, this bill would create a state-mandated local program.*

This bill would require the Superintendent of Public Instruction, with the approval of the State Board of Education, to annually release to the public at least 25% of test items from the standards-based achievement test from the test administered in the previous year.

~~(3)–~~

(2) This bill would reappropriate the sum of \$2,285,000 from the Proposition 98 Reversion Account to the State Department of Education to cover costs incurred during the 2004-05 fiscal year to maintain and score the direct writing assessment for grades 4 and 7 under the STAR Program.

~~(4)–~~

(3) This bill would make other technical, clarifying, and conforming changes.

~~(5)–~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(6)–~~

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 60603 of the Education Code, as~~
2 ~~amended by Section 3 of Chapter 233 of the Statutes of 2004, is~~
3 ~~amended to read:~~
4 ~~60603. (a) As used in this chapter:~~
5 ~~(1) "Achievement test" means any standardized test that~~
6 ~~measures the level of performance that a pupil has achieved in~~
7 ~~the core curriculum areas.~~
8 ~~(2) "Assessment of applied academic skills" means a form of~~
9 ~~assessment that requires pupils to demonstrate their knowledge~~
10 ~~of, and ability to apply, academic knowledge and skills in order~~
11 ~~to solve problems and communicate. It may include, but is not~~
12 ~~limited to, writing an essay response to a question, conducting an~~
13 ~~experiment, or constructing a diagram or model. An assessment~~
14 ~~of applied academic skills may not include assessments of~~
15 ~~personal behavioral standards or skills, including, but not limited~~
16 ~~to, honesty, sociability, ethics, or self-esteem.~~
17 ~~(3) "Basic academic skills" means those skills in the subject~~
18 ~~areas of reading, spelling, written expression, and mathematics~~
19 ~~that provide the necessary foundation for mastery of more~~
20 ~~complex intellectual abilities, including the synthesis and~~
21 ~~application of knowledge.~~
22 ~~(4) "Content standards" means the specific academic~~
23 ~~knowledge, skills, and abilities that all public schools in this state~~
24 ~~are expected to teach and all pupils expected to learn in each of~~
25 ~~the core curriculum areas, at each grade level tested.~~
26 ~~(5) "Core curriculum areas" means the areas of reading,~~
27 ~~writing, mathematics, history-social science, and science.~~
28 ~~(6) "Diagnostic assessment" means interim assessments of the~~
29 ~~current level of achievement of a pupil that serves both of the~~
30 ~~following purposes:~~
31 ~~(A) The identification of particular academic standards or~~
32 ~~skills a pupil has or has not yet achieved.~~
33 ~~(B) The identification of possible reasons that a pupil has not~~
34 ~~yet achieved particular academic standards or skills.~~

~~(7) “Direct writing assessment” means an assessment of applied academic skills that requires pupils to use written expression to demonstrate writing skills, including writing mechanics, grammar, punctuation, and spelling.~~

~~(8) “End of course exam” means a comprehensive and challenging assessment of pupil achievement in a particular subject area or discipline.~~

~~(9) “Performance standards” are standards that define various levels of competence at each grade level in each of the curriculum areas for which content standards are established. Performance standards gauge the degree to which a pupil has met the content standards and the degree to which a school or school district has met the content standards.~~

~~(10) “Publisher” means a commercial publisher or any other public or private entity, other than the department, which is able to provide tests or test items that meet the requirements of this chapter.~~

~~(11) “Statewide pupil assessment program” means the systematic achievement testing of pupils in grades 2 to 11, inclusive, pursuant to the standardized testing and reporting program under Article 4 (commencing with Section 60640) and the assessment of basic academic skills and applied academic skills, administered to pupils in grade levels specified in subdivision (c) of Section 60605, required by this chapter in all schools within each school district by means of tests designated by the state board.~~

~~(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 2. Section 60603 of the Education Code, as added by Section 4 of Chapter 233 of the Statutes of 2004, is repealed.~~

~~SEC. 3. Section 60604 of the Education Code, as amended by Section 5 of Chapter 233 of the Statutes of 2004, is amended to read:~~

~~60604. (a) The superintendent shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with~~

1 the objectives set forth in Section 60602. That program shall
2 include all of the following:

3 (1) A plan for producing valid, reliable, and comparable
4 individual pupil scores in grades 2 to 11, inclusive, and a
5 comprehensive analysis of these scores based on the results of
6 the achievement test designated by the state board that assesses a
7 broad range of basic academic skills pursuant to the Standardized
8 Testing and Reporting (STAR) Program established by Article 4
9 (commencing with Section 60640).

10 (2) A method of working with publishers to ensure valid,
11 reliable, and comparable individual, grade-level, school-level,
12 district-level, county-level, and statewide scores in grades 2 to
13 11, inclusive, that is based on the achievement test designated
14 pursuant to subdivision (b) of Section 60605.

15 (3) Statewide academically rigorous content and performance
16 standards that reflect the knowledge and skills that pupils will
17 need in order to succeed in the information-based, global
18 economy of the 21st century. These skills shall not include
19 personal behavioral standards or skills, including, but not limited
20 to, honesty, sociability, ethics, or self-esteem.

21 (4) A statewide system that provides the results of testing in a
22 manner that reflects the degree to which pupils are achieving the
23 academically rigorous content and performance standards
24 adopted by the state board.

25 (5) The alignment of assessment with the statewide
26 academically rigorous content and performance standards
27 adopted by the state board.

28 (6) The active, ongoing involvement of parents, classroom
29 teachers, administrators, other educators, governing board
30 members of school districts, and the public in all phases of the
31 design and implementation of the statewide pupil assessment
32 program.

33 (7) The development of a contract or contracts with a
34 publisher or publishers, after the approval of statewide
35 academically rigorous content standards by the state board, for
36 the development of performance standards and assessments of
37 applied academic skills designed to test pupils' knowledge of
38 academic skills and abilities to apply that knowledge and those
39 skills in order to solve problems and communicate.

~~(b) The superintendent shall develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the program described in subdivision (a). The annual update shall be submitted on or before March 1 of each year to the chairperson of the fiscal subcommittee considering budget appropriations in each house. The update shall explain any significant variations from the five-year cost projection for the current year budget and the proposed budget.~~

~~(c) The superintendent shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers and approved by the state board before dissemination.~~

~~(d) The superintendent and the state board shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.~~

~~(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district within the period of time specified by the state board.~~

~~(f) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 4. Section 60604 of the Education Code, as added by Section 6 of Chapter 233 of the Statutes of 2004, is repealed.~~

~~SEC. 5. Section 60605 of the Education Code, as amended by Section 7 of Chapter 233 of the Statutes of 2004, is amended to read:~~

~~60605. (a) (1) (A) Not later than January 1, 1998, the state board shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic~~

1 achievement of individual pupils and of schools, school districts,
2 and the California education system. Not later than November 1,
3 1998, the state board shall adopt these standards in the core
4 curriculum areas of history-social science and science.

5 (B) The state board shall adopt statewide performance
6 standards in the core curriculum areas of reading, writing,
7 mathematics, history-social science, and science based on the
8 recommendations made by the superintendent and a contractor or
9 contractors.

10 (C) The state board shall require the contractor or contractors
11 to submit performance standards to the superintendent and the
12 state board not later than a specified date that allows sufficient
13 opportunity for the superintendent to make a recommendation to
14 the state board and for the state board to conduct regional
15 hearings prior to the adoption of the performance standards.

16 (2) (A) The state board may modify any proposed content
17 standards or performance standards prior to adoption and may
18 adopt content and performance standards in individual core
19 curriculum areas as those standards are submitted to the board.
20 The state performance standards shall be established against
21 specific grade level benchmarks of academic achievement for
22 each subject area tested and shall be based on the knowledge and
23 skills that pupils will need in order to succeed in the
24 information-based, global economy of the 21st century. These
25 skills shall not include personal behavioral standards or skills,
26 including, but not limited to, honesty, sociability, ethics, or
27 self-esteem. The standards adopted pursuant to this section shall
28 be for the purpose of guiding state decisions regarding the
29 development, adoption, and approval of assessment instruments
30 pursuant to this chapter and does not mandate any actions or
31 activities by school districts.

32 (B) Because these standards are models, the adoption of these
33 standards is not subject to the Administrative Procedure Act.
34 This subparagraph is declaratory of existing law.

35 (3) Before adopting academic content and performance
36 standards, the state board shall hold regional hearings for the
37 purpose of giving parents and other members of the public the
38 opportunity to comment on the proposed standards.

39 (b) (1) The state board shall require the department to notify
40 publishers of the opportunity to submit, for consideration by the

1 state board pursuant to Section 60642, tests of achievement that
2 include all of the basic academic skills identified in subdivision
3 (c) of Section 60603 in grades 2 to 8, inclusive, and the core
4 curriculum areas of English and language arts, mathematics, and
5 science in grades 9 to 11, inclusive.

6 (2) The superintendent shall recommend to the state board
7 which achievement test to adopt pursuant to subdivision (b) of
8 Section 60642.

9 (c) (1) The state board shall ensure that the statewide
10 assessment system adopted pursuant to this chapter yields valid,
11 reliable individual pupil scores and, where applicable, aggregate
12 school scores, school district scores, and statewide scores of
13 pupils and assesses basic academic skills and content standards,
14 including the use of a direct writing assessment or other applied
15 academic skills if deemed valid and reliable and if resources are
16 made available for their use.

17 (2) This subdivision does not prevent the state board from
18 developing or adopting an assessment instrument that also
19 contains assessments of basic academic skills.

20 (d) To the extent feasible and as otherwise required, the state
21 board shall ensure that assessments developed, or contracted for
22 pursuant to Section 60642.5, by the state are aligned with the
23 statewide content and performance standards adopted pursuant to
24 subdivision (a). The department, with the approval of the state
25 board, shall periodically contract for a review of the achievement
26 test for conformance with these standards.

27 (e) After adopting statewide content and performance
28 standards, the state board shall review the existing curriculum
29 frameworks for conformity with the new statewide standards and
30 shall modify the curriculum frameworks where appropriate to
31 bring them into alignment with the standards.

32 (f) The state board shall adopt regulations for the conduct and
33 administration of the testing and assessment program.

34 (g) The state board shall adopt a regulation for minimum
35 security procedures that test and assessment publishers and
36 school districts must follow to ensure the security and integrity of
37 test and assessment questions and materials.

38 (h) This section shall become inoperative on July 1, 2011, and,
39 as of January 1, 2012, is repealed, unless a later enacted statute,
40 that becomes operative on or before January 1, 2012, deletes or

~~1 extends the dates on which it becomes inoperative and is
2 repealed.~~

~~3 SEC. 6. Section 60605 of the Education Code, as added by
4 Section 8 of Chapter 233 of the Statutes of 2004, is repealed.~~

~~5 SEC. 7. Section 60605.6 of the Education Code, as amended
6 by Section 9 of Chapter 233 of the Statutes of 2004, is amended
7 to read:~~

~~8 60605.6. Subject to the availability of funds in the annual
9 Budget Act for this purpose, the superintendent, upon approval of
10 the state board, shall contract for the development and
11 distribution of workbooks, as follows:~~

~~12 (a) One workbook to be distributed to all pupils in the 10th
13 grade. This workbook shall contain information on the
14 proficiency levels that must be demonstrated by pupils on the
15 high school exit examination described in Chapter 9
16 (commencing with Section 60850). The workbook also shall
17 contain sample questions, with explanations describing how
18 these sample questions test pupil knowledge of the language arts
19 and mathematics content standards adopted by the state board
20 pursuant to Section 60605.~~

~~21 (b) Separate workbooks for each of grades 2 to 11, inclusive.
22 Each pupil in grades 2 to 11, inclusive, who is required to take
23 the achievement tests described in Section 60642 or Section
24 60642.5 shall receive a copy of the workbook designed for the
25 same grade level in which the pupil is enrolled. These workbooks
26 shall contain material to assist pupils and their parents with
27 standards-based learning, including the grade appropriate
28 academic content standards adopted by the state board pursuant
29 to Section 60605 and sample questions that require knowledge of
30 these standards to answer. The workbooks also shall describe
31 how the sample questions test knowledge of the state board
32 adopted academic content standards.~~

~~33 (c) This section shall become inoperative on July 1, 2011, and,
34 as of January 1, 2012, is repealed, unless a later enacted statute,
35 that becomes operative on or before January 1, 2012, deletes or
36 extends the dates on which it becomes inoperative and is
37 repealed.~~

~~38 SEC. 8. Section 60605.6 of the Education Code, as added by
39 Section 10 of Chapter 233 of the Statutes of 2004, is repealed.~~

1 ~~SEC. 9.— Section 60606 of the Education Code, as amended by~~
2 ~~Section 11 of Chapter 233 of the Statutes of 2004, is amended to~~
3 ~~read:~~

4 ~~60606. (a) After designating a test of academic achievement~~
5 ~~for use in grades 2 to 11, inclusive, pursuant to Section 60642, or~~
6 ~~adopting an assessment of applied academic skills for use in~~
7 ~~grades 4, 5, 8, and 10 pursuant to Section 60605, the state board~~
8 ~~shall submit each of those two instruments when designated or~~
9 ~~adopted to the Statewide Pupil Assessment Review Panel, which~~
10 ~~is hereby established, for review by the panel.~~

11 ~~(b) The panel shall consist of six members. Three members~~
12 ~~shall be appointed by the Governor, one member shall be~~
13 ~~appointed by the Senate Committee on Rules, one member shall~~
14 ~~be appointed by the Speaker of the Assembly, and one member~~
15 ~~shall be appointed by the superintendent. A majority of the panel~~
16 ~~shall consist of parents whose children attend public schools in~~
17 ~~the state in kindergarten and grades 1 to 12, inclusive.~~

18 ~~(c) Panel members shall serve two-year terms, without~~
19 ~~compensation. No panel member shall serve more than two~~
20 ~~consecutive terms.~~

21 ~~(d) The panel shall review the two instruments specified in~~
22 ~~subdivision (a) in order to ensure that the content of the~~
23 ~~instruments complies with the requirements of Section 60614.~~
24 ~~Notwithstanding any other provision of law, the panel may meet~~
25 ~~in closed session with a publisher for the purpose of addressing~~
26 ~~questions and clarifying issues that relate to ensuring that the~~
27 ~~content of the publisher's test or assessment, as the case may be,~~
28 ~~comply with the requirements of Section 60614.~~

29 ~~(e) The panel shall report its findings and recommendations to~~
30 ~~the state board within 10 days of its receipt of each instrument. If~~
31 ~~the panel fails to report within the required 10 days, the test or~~
32 ~~assessment shall be deemed acceptable to the panel.~~

33 ~~(f) This section shall become inoperative on July 1, 2011, and,~~
34 ~~as of January 1, 2012, is repealed, unless a later enacted statute,~~
35 ~~that becomes operative on or before January 1, 2012, deletes or~~
36 ~~extends the dates on which it becomes inoperative and is~~
37 ~~repealed.~~

38 ~~SEC. 10.— Section 60606 of the Education Code, as added by~~
39 ~~Section 12 of Chapter 233 of the Statutes of 2004, is repealed.~~

~~SEC. 11.~~

SECTION 1. Section 60611 of the Education Code is amended to read:

60611. (a) A city, county, city and county, district superintendent of schools, or principal or teacher of any elementary or secondary school, including a charter school, shall not carry on any program of specific preparation of pupils for the statewide pupil assessment program or a particular test used therein.

(b) A city, county, city and county, district superintendent of schools, principal, or a teacher of an elementary or secondary school, including a charter school, may use instructional materials provided by the department or its agents in the academic preparation of pupils for the statewide pupil assessment if those instructional materials are embedded in an instructional program that is intended to improve pupil learning.

~~SEC. 12.~~

SEC. 2. Section 60640 of the Education Code, as amended by Section 15 of Chapter 233 of the Statutes of 2004, is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 2004–05 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 3 and 7 the achievement test designated by the state board pursuant to Section 60642 and shall administer to each of its pupils in grades 2 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the state board in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(f) (1) At the option of the school district, pupils with limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in their primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivision (a) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable.

(2) Notwithstanding any other law, the state board shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

(B) Once a dominant primary language assessment is available for use for a specific grade level, it shall be administered in place

1 of the assessment designated pursuant to paragraph (1) for that
2 grade level.

3 (C) In choosing a contractor to develop a primary language
4 assessment the state board shall consider the criteria for choosing
5 a contractor or test publisher as specified by Sections 60642 and
6 60643, and as specified by Section 60642.5, as applicable.

7 (D) Subject to the availability of funds, the assessments shall
8 be developed in grade order starting with the lowest grade
9 subject to the STAR Program.

10 (E) If the state board contracts for the development of primary
11 language assessments or test items to augment an existing
12 assessment, the state shall retain ownership rights to the
13 assessment and the test items. With the approval of the state
14 board, the department may license the test for use in other states
15 subject to a compensation agreement approved by the
16 Department of Finance.

17 (F) On or before January 1, 2006, the department shall submit
18 to the Legislature a report on the development and
19 implementation of the initial primary language assessments and
20 recommendations on the development and implementation of
21 future assessments and funding requirements.

22 (g) A pupil identified as limited English proficient pursuant to
23 the administration of a test made available pursuant to Section
24 60810 who is enrolled in any of grades 2 to 11, inclusive, and
25 who either receives instruction in his or her primary language or
26 has been enrolled in a school in the United States for less than 12
27 months, shall be required to take a test in his or her primary
28 language if a test is available.

29 (h) (1) The Superintendent shall apportion funds to school
30 districts to enable school districts to meet the requirements of
31 subdivisions (b), (e), (f), and (g).

32 (2) The state board shall annually establish the amount of
33 funding to be apportioned to school districts for each test
34 administered and shall annually establish the amount that each
35 publisher shall be paid for each test administered under the
36 agreements required pursuant to Section 60643. The amounts to
37 be paid to the publishers shall be determined by considering the
38 cost estimates submitted by each publisher each September and
39 the amount included in the annual Budget Act, and by making
40 allowance for the estimated costs to school districts for

1 compliance with the requirements of subdivisions (b), (e), (f),
2 and (g).

3 (3) An adjustment to the amount of funding to be apportioned
4 per test may not be valid without the approval of the Director of
5 Finance. A request for approval of an adjustment to the amount
6 of funding to be apportioned per test shall be submitted in writing
7 to the Director of Finance and the chairpersons of the fiscal
8 committees of both houses of the Legislature with accompanying
9 material justifying the proposed adjustment. The Director of
10 Finance is authorized to approve only those adjustments related
11 to activities required by statute. The Director of Finance shall
12 approve or disapprove the amount within 30 days of receipt of
13 the request and shall notify the chairpersons of the fiscal
14 committees of both houses of the Legislature of the decision.

15 (i) For the purposes of making the computations required by
16 Section 8 of Article XVI of the California Constitution, the
17 appropriation for the apportionments made pursuant to paragraph
18 (1) of subdivision (h), and the payments made to the publishers
19 under the contracts required pursuant to Section 60643 or
20 subparagraph (C) of paragraph (1) of subdivision (a) of Section
21 60605 between the department and the contractor, are “General
22 Fund revenues appropriated for school districts,” as defined in
23 subdivision (c) of Section 41202, for the applicable fiscal year,
24 and included within the “total allocations to school districts and
25 community college districts from General Fund proceeds of taxes
26 appropriated pursuant to Article XIII B,” as defined in
27 subdivision (e) of Section 41202, for that fiscal year.

28 (j) As a condition to receiving an apportionment pursuant to
29 subdivision (h), a school district shall report to the superintendent
30 all of the following:

31 (1) The number of pupils enrolled in the school district in
32 grades 2 to 11, inclusive.

33 (2) The number of pupils to whom an achievement test was
34 administered in grades 2 to 11, inclusive, in the school district.

35 (3) The number of pupils in paragraph (1) who were exempted
36 from the test at the request of their parents or guardians.

37 (k) The Superintendent and the state board are authorized and
38 encouraged to assist postsecondary educational institutions to use
39 the assessment results of the California Standards Tests,

including, but not limited to, the augmented California Standards Tests, for academic credit, placement, or admissions processes.

(l) The superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

(m) This section shall become inoperative on July 1, 2011 2007, and as of January 1, 2012 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 60640 of the Education Code, as added by Section 16 of Chapter 233 of the Statutes of 2004, is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 2007–08 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 3 and 7 the achievement test designated by the ~~State Board of Education~~ *state board* pursuant to Section 60642 and shall administer to each of its pupils in grades 3 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the state board in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate

1 accommodations in administration, where necessary, and those
2 individuals with exceptional needs who are unable to participate
3 in the testing, even with accommodations, shall be given an
4 alternate assessment.

5 (f) At the option of the school district, a pupil with limited
6 English proficiency who is enrolled in any of grades 3 to 11,
7 inclusive, may take a second achievement test in his or her
8 primary language. Primary language tests administered pursuant
9 to this subdivision and subdivision (g) shall be subject to the
10 requirements of subdivision (a) of Section 60641. These primary
11 language tests shall produce individual pupil scores that are valid
12 and reliable. Notwithstanding any other law, the state board shall
13 designate for use, as part of this program, a single primary
14 language test in each language for which a test is available for
15 grades 3 to 11, inclusive, pursuant to the process used for
16 designation of the assessment chosen in the 1997–98 fiscal year,
17 as specified by Sections 60642 and 60643, and as specified by
18 Section 60642.5, as applicable.

19 (g) A pupil identified as limited English proficient pursuant to
20 the administration of a test provided by Section 60810, who is
21 enrolled in any of grades 3 to 11, inclusive, and has not been
22 reclassified as proficient in English pursuant to reclassification
23 procedures required to be developed by Section 313, shall be
24 required to take a test in his or her primary language if a test is
25 available and if fewer than 12 months have elapsed after his or
26 her initial enrollment in any public school in the state.

27 (h) (1) ~~The Superintendent of Public Instruction~~ shall
28 apportion funds to school districts to enable school districts to
29 meet the requirements of subdivision (b), the alternative
30 assessment required by subdivision (e), and subdivisions (f) and
31 (g).

32 (2) The state board shall annually establish the amount of
33 funding to be apportioned to school districts for each test
34 administered and shall annually establish the amount that each
35 publisher shall be paid for each test administered under the
36 agreements required pursuant to Section 60643. The amounts to
37 be paid to the publishers shall be determined by considering the
38 cost estimates submitted by each publisher each September and
39 the amount included in the annual Budget Act, and by making
40 allowance for the estimated costs to school districts for

1 compliance with the requirements of subdivision (b), the
2 alternative assessment required by subdivision (e), and
3 subdivisions (f) and (g).

4 (3) An adjustment to the amount of funding to be apportioned
5 per test may not be valid without the approval of the Director of
6 Finance. A request for approval of an adjustment to the amount
7 of funding to be apportioned per test shall be submitted in writing
8 to the Director of Finance and the chairpersons of the fiscal
9 committees of both houses of the Legislature with accompanying
10 material justifying the proposed adjustment. The Director of
11 Finance is authorized to approve only those adjustments related
12 to activities required by statute. The Director of Finance shall
13 approve or disapprove the amount within 30 days of receipt of
14 the request and shall notify the chairpersons of the fiscal
15 committees of both houses of the Legislature of the decision.

16 (i) For the purposes of making the computations required by
17 Section 8 of Article XVI of the California Constitution, the
18 appropriation for the apportionments made pursuant to paragraph
19 (1) of subdivision (h), and the payments made to the publishers
20 under the contracts required pursuant to Section 60643 or
21 subparagraph (C) of paragraph (1) of subdivision (a) of Section
22 60605 between the department and the contractor, are "General
23 Fund revenues appropriated for school districts," as defined in
24 subdivision (c) of Section 41202, for the applicable fiscal year,
25 and included within the "total allocations to school districts and
26 community college districts from General Fund proceeds of taxes
27 appropriated pursuant to Article XIII B," as defined in
28 subdivision (e) of Section 41202, for that fiscal year.

29 (j) As a condition to receiving an apportionment pursuant to
30 subdivision (h), a school district shall report to the ~~superintendent~~
31 *Superintendent* all of the following:

32 (1) The number of pupils enrolled in the school district in
33 grades 2 to 11, inclusive.

34 (2) The number of pupils to whom an achievement test was
35 administered in grades 2 to 11, inclusive, in the school district.

36 (3) The number of pupils in paragraph (1) who were exempted
37 from the test at the request of their parents or guardians.

38 (k) The ~~superintendent~~ *Superintendent* and the state board are
39 authorized and encouraged to assist postsecondary educational
40 institutions to use the *assessment results of the California*

Standards Tests, *including, but not limited to, the augmented California Standards Tests*, for academic credit, ~~or placement, and or admissions processes, or both purposes.~~

(l) ~~The superintendent~~ Superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

(m) This section shall become operative July 1, 2007.

SEC. 13. ~~Section 60640 of the Education Code, as added by Section 16 of Chapter 233 of the Statutes of 2004, is repealed.~~

SEC. 14. ~~Section 60642 of the Education Code is amended to read:~~

~~60642. (a) The superintendent and the state board may consider any evaluations of independent experts who have not been employed by a test publisher in the preceding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.~~

~~(b) Based upon a review of the achievement tests submitted and the recommendation made by the superintendent pursuant to subdivision (b) of Section 60605, the state board, in its sole discretion, based on the considerations set forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 3 and 7.~~

~~(c) The state board shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 3 and 7.~~

~~(d) The state board is hereby authorized to designate the achievement test to be administered pursuant to this article for more than one academic year subject to the availability of funds.~~

~~(e) The state board shall minimize, to the extent it deems feasible, the amount of testing time required by the assessment in subdivision (b) for those content areas for which there also exists a standards-based examination as provided for pursuant to Section 60642.5.~~

~~(f) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or~~

1 extends the dates on which it becomes inoperative and is
2 repealed.

3 SEC. 15. ~~Section 60643 of the Education Code, as amended~~
4 ~~by Section 19 of Chapter 233 of the Statutes of 2004, is amended~~
5 ~~to read:~~

6 ~~60643. (a) To be eligible for consideration under Section~~
7 ~~60642 or 60642.5 by the state board, test publishers shall agree in~~
8 ~~writing each year to meet the following requirements, as~~
9 ~~applicable, if selected:~~

10 ~~(1) Enter into an agreement, pursuant to subdivision (c) or (f),~~
11 ~~with the department by October 15.~~

12 ~~(2) With respect to selection under Section 60642.5, align the~~
13 ~~standards-based achievement test provided for in Section~~
14 ~~60642.5 to the academically rigorous content and performance~~
15 ~~standards adopted by the state board.~~

16 ~~(3) Comply with subdivisions (c) and (d) of Section 60645.~~

17 ~~(4) Provide valid and reliable individual pupil scores only in~~
18 ~~the content areas specified in subdivision (c) of Section 60642 to~~
19 ~~parents or guardians, teachers, and school administrators.~~

20 ~~(5) Provide valid and reliable aggregate scores only in the~~
21 ~~content areas specified in subdivision (c) of Section 60642 to~~
22 ~~school districts and county boards of education in all of the~~
23 ~~following forms and formats:~~

24 ~~(A) Grade level.~~

25 ~~(B) School level.~~

26 ~~(C) District level.~~

27 ~~(D) Countywide.~~

28 ~~(E) Statewide.~~

29 ~~(F) Comparison of statewide scores relative to other states.~~

30 ~~(6) Provide disaggregated scores, based on~~
31 ~~limited-English-proficient status and~~
32 ~~nonlimited-English-proficient status. For purposes of this section,~~
33 ~~pupils with “nonlimited-English-proficient status” shall include~~
34 ~~the total of those pupils who are English-only pupils,~~
35 ~~fluent-English-proficient pupils, and redesignated~~
36 ~~fluent-English-proficient pupils. These scores shall be provided~~
37 ~~to school districts and county boards of education in the same~~
38 ~~forms and formats listed in paragraph (5).~~

39 ~~(7) Provide disaggregated scores by pupil gender and ethnicity~~
40 ~~and provide disaggregated scores based on whether pupils are~~

~~1 economically disadvantaged or not. These disaggregated scores
2 shall be in the same forms and formats as listed in paragraph (5).
3 In any one year, the disaggregation shall entail information
4 already being collected by school districts, county offices of
5 education, or charter schools.~~

~~6 (8) Provide disaggregated scores for pupils who have
7 individualized education programs and have enrolled in special
8 education, to the extent required by federal law. These scores
9 shall be provided in the same forms and formats listed in
10 paragraph (5). This section may not be construed to exclude the
11 scores of special education pupils from any state or federal
12 accountability system.~~

~~13 (9) Provide information listed in paragraphs (5), (6), (7), and
14 (8) to the department and the state board in the medium requested
15 by each entity, respectively.~~

~~16 (b) It is the intent of the Legislature that the publisher work
17 with the superintendent and the state board in developing a
18 methodology to disaggregate statewide scores as required in
19 paragraphs (6) and (7) of subdivision (a), and in determining
20 which variable indicated on the STAR testing document shall
21 serve as a proxy for “economically disadvantaged” status
22 pursuant to paragraph (7).~~

~~23 (c) Access to any information about individual pupils or their
24 families shall be granted to the publisher only for purposes of
25 correctly associating test results with the pupils who produced
26 those results or for reporting and disaggregating test results as
27 required by this section. School districts are prohibited from
28 excluding a pupil from the test if a parent or parents decline to
29 disclose income. This chapter does not abridge or deny rights to
30 confidentiality contained in the Family Educational Rights and
31 Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable
32 provisions of state and federal law that protect the confidentiality
33 of information collected by educational institutions.~~

~~34 (d) Notwithstanding any other provision of law, the publisher
35 of the achievement test designated pursuant to Section 60642, the
36 publisher of the standards-based achievement test provided for in
37 Section 60642.5, or any contractor under subdivision (f) shall
38 comply with all of the conditions and requirements enumerated
39 in subdivision (a), as applicable, to the satisfaction of the state
40 board.~~

1 ~~(e) (1) A publisher may not provide a test described in Section~~
2 ~~60642, 60642.5, or 60650 or in subdivision (f) of Section 60640~~
3 ~~for use in California public schools, unless the publisher enters~~
4 ~~into a written contract with the department as set forth in this~~
5 ~~subdivision.~~

6 ~~(2) The department shall develop, and the state board shall~~
7 ~~approve, a contract to be entered into with any publisher pursuant~~
8 ~~to paragraph (1). The department may develop the contract~~
9 ~~through negotiations with the publisher.~~

10 ~~(3) For purposes of the contracts authorized pursuant to this~~
11 ~~subdivision, the department is exempt from the requirements of~~
12 ~~Part 2 (commencing with Section 10100) of Division 2 of the~~
13 ~~Public Contract Code and from the requirements of Article 6~~
14 ~~(commencing with Section 999) of Chapter 6 of Division 4 of the~~
15 ~~Military and Veterans Code.~~

16 ~~(4) The contracts shall include provisions for progress~~
17 ~~payments to the publisher for work performed or costs incurred~~
18 ~~in the performance of the contract. Not less than 10 percent of the~~
19 ~~amount budgeted for each separate and distinct component task~~
20 ~~provided for in each contract shall be withheld pending final~~
21 ~~completion of all component tasks by that publisher. The total~~
22 ~~amount withheld pending final completion shall not exceed 10~~
23 ~~percent of the total contract price.~~

24 ~~(5) The contracts shall require liquidated damages to be paid~~
25 ~~by the publisher in the amount of up to 10 percent of the total~~
26 ~~cost of the contract for any component task that the publisher~~
27 ~~through its own fault or that of its subcontractors fails to~~
28 ~~substantially perform by the date specified in the agreement.~~

29 ~~(6) The contracts shall establish the process and criteria by~~
30 ~~which the successful completion of each component task shall be~~
31 ~~recommended by the department and approved by the state~~
32 ~~board.~~

33 ~~(7) The publishers shall submit, as part of the contract~~
34 ~~negotiation process, a proposed budget and invoice schedule, that~~
35 ~~includes a detailed listing of the costs for each component task~~
36 ~~and the expected date of the invoice for each completed~~
37 ~~component task.~~

38 ~~(8) The contracts shall specify the following component tasks,~~
39 ~~as applicable, that are separate and distinct:~~

1 ~~(A) Development of new tests or test items as required by~~
2 ~~paragraph (2) of subdivision (a).~~

3 ~~(B) Test materials production or publication.~~

4 ~~(C) Delivery of test materials to school districts.~~

5 ~~(D) Test processing, scoring, and analyses.~~

6 ~~(E) Reporting of test results to the school districts, including,~~
7 ~~but not limited to, all reports specified in this section.~~

8 ~~(F) Reporting of test results to the department, including, but~~
9 ~~not limited to, the electronic files required pursuant to this~~
10 ~~section.~~

11 ~~(G) All other analyses or reports required by the~~
12 ~~superintendent to meet the requirements of state and federal law~~
13 ~~and set forth in the agreement.~~

14 ~~(9) The contracts shall specify the specific reports and data~~
15 ~~files, if any, that are to be provided to school districts by the~~
16 ~~publisher and the number of copies of each report or file to be~~
17 ~~provided.~~

18 ~~(10) The contracts shall specify the means by which any~~
19 ~~delivery date for materials to each school district shall be verified~~
20 ~~by the publisher and the school district.~~

21 ~~(11) School districts may negotiate a separate agreement with~~
22 ~~the publisher for any additional materials or services not within~~
23 ~~the contracts specified in this subdivision, including, but not~~
24 ~~limited to, the administration of the tests to pupils in grade levels~~
25 ~~other than grades 2 to 11, inclusive. Any separate agreement is~~
26 ~~not within the scope of the contract specified in this subdivision.~~

27 ~~(f) The department, with approval of the state board, may enter~~
28 ~~into a separate contract for the development or administration of~~
29 ~~any test authorized pursuant to this part, including, but not~~
30 ~~limited to, item development, coordination of tests, assemblage~~
31 ~~of tests or test items, scoring, or reporting. The liquidated~~
32 ~~damages provision set forth in paragraph (5) of subdivision (e)~~
33 ~~shall apply to any contract entered into pursuant to this~~
34 ~~subdivision.~~

35 ~~(g) This section shall become inoperative on July 1, 2011, and,~~
36 ~~as of January 1, 2012, is repealed, unless a later enacted statute,~~
37 ~~that becomes operative on or before January 1, 2012, deletes or~~
38 ~~extends the dates on which it becomes inoperative and is~~
39 ~~repealed.~~

1 ~~SEC. 16.—Section 60643 of the Education Code, as added by~~
2 ~~Section 20 of Chapter 233 of the Statutes of 2004, is repealed.~~

3 ~~SEC. 17.—Section 60643.1 of the Education Code, as~~
4 ~~amended by Section 21 of Chapter 233 of the Statutes of 2004, is~~
5 ~~amended to read:~~

6 ~~60643.1. (a) (1) The test publisher designated by the state~~
7 ~~board pursuant to Section 60642 shall make available a reading~~
8 ~~list on the Internet by June 1 of each school year. The reading list~~
9 ~~shall include an index that correlates ranges of pupil reading~~
10 ~~scores on the English language arts portion of the achievement~~
11 ~~test designated pursuant to Section 60642 to titles of materials~~
12 ~~that would be suitable for pupils in each of grades 2 to 11,~~
13 ~~inclusive, to read in order to improve their reading skills. This~~
14 ~~reading list shall include titles of books that allow a pupil to~~
15 ~~practice reading at his or her current reading level and that will~~
16 ~~assist the pupil in achieving a higher level of proficiency. To the~~
17 ~~extent possible, the index shall also include information related~~
18 ~~to the subject matter of each title. At a minimum, the reading list~~
19 ~~shall also categorize titles by subject matter and identify~~
20 ~~age-appropriate distinctions in the list.~~

21 ~~(2) Each school year the test publisher shall make available,~~
22 ~~for purchase by school districts, a report that provides a~~
23 ~~numerical distribution of the reading scores of all pupils in~~
24 ~~California who took the achievement test designated pursuant to~~
25 ~~Section 60642.~~

26 ~~(3) Each school year the test publisher shall make available,~~
27 ~~for purchase by school districts, reading lists that can be~~
28 ~~distributed to pupils based on a pupil's age and the ranges of~~
29 ~~scores on the English language arts portion of the achievement~~
30 ~~test designated pursuant to Section 60642.~~

31 ~~(4) The requirements of this subdivision shall only become~~
32 ~~operative upon a determination by the Director of Finance that~~
33 ~~funds are available to make an adjustment pursuant to~~
34 ~~subdivision (h) of Section 60640.~~

35 ~~(b) The state board and the superintendent shall jointly certify~~
36 ~~that the process used by the publisher to determine the reading~~
37 ~~levels of the corresponding reading list pursuant to paragraph (1)~~
38 ~~of subdivision (a) meets the following criteria:~~

39 ~~(1) The process is educationally valid.~~

~~(2) The process results in a reading list for each reading span that provides titles at the pupil's current reading level and the next higher level for challenging practice.~~

~~(3) The process results in a selection from the universe of titles from the list developed pursuant to subdivision (d) that matches each reading level.~~

~~(4) The process is unbiased in the selection of publishers' titles from the legal compliance list.~~

~~(e) The titles listed at each reading level range posted on the Internet and the reading lists made available to school districts pursuant to subdivision (a) shall, at a minimum, include all relevant literature materials approved as of September 1, 1999, as being legally compliant pursuant to Article 3 (commencing with Section 60040) of Chapter 1, and the titles listed in all of the content area reading and literature lists that are developed and published by the department and that have been determined by the department to meet the relevant reading level as certified pursuant to subdivision (b).~~

~~(d) By imposing the requirements of this section on publishers, it is not the intent of the Legislature to unfairly disadvantage any publisher who has otherwise met the requirements of this section or of Article 3 (commencing with Section 60040) of Chapter 1 of Part 33.~~

~~(e) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 18. — Section 60643.1 of the Education Code, as added by Section 22 of Chapter 233 of the Statutes of 2004, is repealed.~~

~~SEC. 19.~~

SEC. 4. The sum of two million two hundred eighty-five thousand dollars (\$2,285,000) is hereby reappropriated from the Proposition 98 Reversion Account to the State Department of Education for the Standardized Testing and Reporting Program. These funds shall be used to cover costs incurred during the 2004-05 fiscal year to maintain and score the direct writing assessment for grades 4 and 7 for the program funded by Schedule 3 of Item 6110-113-0001 of Section 2.00 of the Budget Act of 2004 (Chapter 208, Statutes of 2004).

1 ~~SEC. 20.~~

2 *SEC. 5.* If the Commission on State Mandates determines that
3 this act contains costs mandated by the state, reimbursement to
4 local agencies and school districts for those costs shall be made
5 pursuant to Part 7 (commencing with Section 17500) of Division
6 4 of Title 2 of the Government Code.

7 ~~SEC. 21.~~

8 *SEC. 6.* This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety
10 within the meaning of Article IV of the Constitution and shall go
11 into immediate effect. The facts constituting the necessity are:

12 In order to ensure that the pupil testing programs affected by
13 this act are properly implemented, pursuant to changes made by
14 this act, it is necessary that this act take effect immediately.